

D.T.E. 98-13F

Investigation pursuant to the Electric Restructuring Act, St. 1997, c. 164, §§ 239, 240 (G.L.

c. 164, §§ 94G, 94G½) by the Department of Telecommunications and Energy, to consider whether granting exemptions from some or all of the requirements of G.L. c. 164, §§ 94G and 94G½ (including fuel charges, performance reviews, and goal-settings) for Western Massachusetts Electric Company is in the public interest.

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AND

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FOR: WESTERN MASSACHUSETTS ELECTRIC COMPANY

Respondent

Thomas F. Reilly, Attorney General

By: John M. Grugan, Assistant Attorney General

Joseph W. Rogers, Assistant Attorney General

Regulated Industries Division

Public Protection Bureau

200 Portland Street

Boston, Massachusetts 02114

Intervenor

## I. INTRODUCTION

On January 22, 1998, the Department of Telecommunications and Energy ("Department") opened an investigation pursuant to the Electric Industry Restructuring Act ("Restructuring Act"), St. 1997, c. 164, §§ 239, 240 (G.L. c. 164, §§ 94G, 94G½), to consider whether granting exemptions from some or all of the requirements of G.L. c. 164, §§ 94G and 94G½ (including fuel charges, performance reviews and goal-settings) for Western Massachusetts Electric Company ("WMECo" or "Company"), Eastern Edison Company, Cambridge Electric Light Company, Commonwealth Electric Company, Boston Edison Company, Fitchburg Gas and Electric Light Company, Massachusetts Electric Company, and Nantucket Electric Company (collectively "Companies") is in the public interest. Notice of §§ 94G and 94G½ Exemptions. The matters were docketed as D.T.E. 98-13A through F. This Order pertains solely to WMECo, D.T.E. 98-13F.

Pursuant to the duly issued notice, the Company and the Attorney General filed written comments. A public hearing at the Department's offices on February 10, 1998. The Attorney General of the Commonwealth ("Attorney General") intervened as of right pursuant to G.L. c. 12, § 11E. The Department also granted Western Massachusetts Industrial Customers Group's petitioned to intervene. Hearing Officer Ruling, D.T.E. 98-13, at 5-6 (August 4, 1998).

On February 20, 1998, the Department issued an Order that, in pertinent part, directed the Companies to file by May 1, 1998, for Department approval, a plan for reconciling any over- or under-recovery in their respective fuel charge accounts and a proposal for exemptions from some or all of the requirements of G.L. c. 164, §§ 94G and 94G½ ("February 20, 1998 Order").<sup>(1)</sup> The Company filed its plan for reconciliation and exemptions on May 1, 1998 ("May 1, 1998 Plan").

An evidentiary hearing was held at the offices of the Department, on May 13, 1999<sup>(2)</sup> regarding the Company's May 1, 1998 Plan. In support of the May 1, 1998 Plan, the Company sponsored the testimony of one witness: Robert Baumann, manager of Massachusetts revenue-requirements and fuel recovery for Northeast Utilities. The evidentiary record consists of six exhibits, two responses to record requests, and the testimony of Mr. Baumann. The Attorney General filed a brief at the conclusion of the hearings in each of the separate cases. The Company also filed a brief in this proceeding.

## II. POSITIONS OF THE PARTIES

### A. WMECo

According to WMECo's May 1, 1998 Plan, the Company has a March fuel charge over-recovery of \$1,452,941 (May 1, 1998 Plan at 1). The Company requests that its March fuel charge over-recovery be applied to the balance of an approximate \$24.5 million fuel charge under-recovery that WMECo had incurred as of February 28, 1998 (WMECo Brief at 3). WMECo argues that the Department should consider the Company's fuel charge balance as a whole and not attempt to distinguish between the February 28, 1998 fuel charge under-recovery balance and the March fuel charge over-recovery (id.). WMECo states that refunding the March fuel charge over-recovery without decreasing the February 28, 1998 fuel charge under-recovery balance is not in the ratepayers' best interest, because the February 28, 1998 fuel charge under-recovery balance will ultimately need to be collected from WMECo ratepayers (id.).

In addition, the Company requests that it be exempted from the provisions of G.L. c. 164, §§ 94G and 94G½ for its non-nuclear generating facilities since it has either divested or is in the process of divesting itself of all entitlement interests in its non-nuclear generating units (May 1, 1998 Plan at 6; Tr. at 20). WMECo states that it intends to continue to file "Proposed Performance Program" and "Actual Unit by Unit Performance Programs" for its nuclear generating units (id.).

### B. Attorney General

The Attorney General proposes that the fuel charge over-recovery be returned to ratepayers in the form of a credit applied against the WMECo's standard offer deferral account ("SODA") (Attorney General Brief at 1). The Attorney General does not take issue with the Department granting exemptions from G.L. c. 164, §§ 94G and 94G½ for non-nuclear generating facilities (id. at 10). However, the Attorney General asserts that such exemptions should not create future limitations on the Department's authority to investigate the procurement of standard offer and default service power (id. at 11).

The Attorney General argues that the final balance of the February 28, 1998 fuel charge under-recovery is undetermined due to the fact that WMECo has not supported this total with record evidence in this proceeding (id. at 16-17). The Attorney General contends that the determination of the final balance of the February 28, 1998 fuel charge under-recovery should be resolved as part of the resolution of WMECo's outstanding performance reviews (id. at 15). Finally, the Attorney General is concerned that there are several outstanding fuel charge issues that may not have been identified as part of this proceeding (id. at 14). As a result, the Attorney General recommends that the Department order the Company to compile a list, subject to review, of outstanding fuel charge related issues and have the Company file a plan on how it intends to resolve them (id.).

## III. ANALYSIS AND FINDINGS

WMECo states that it has a March fuel charge over-recovery of \$1,452,941 (May 1, 1998 Plan at 1). No party in this proceeding disputed the amount of the March fuel charge over-recovery. After review of the documentation supporting these figures, the Department finds that \$1,452,941 is the March fuel charge over-recovery for WMECo. Accordingly, \$1,452,941 shall be returned to ratepayers.

WMECo proposed to apply the March fuel charge over-recovery to the balance of the \$24.5 million fuel charge under-recovery that WMECo had incurred as of February 28, 1998 (WMECo Brief at 3). The Attorney General contends that the determination of the final balance of the February 28, 1998 under-recovery should be resolved as part of the outcome of WMECo's outstanding performance reviews (Attorney General Brief at 15). The Attorney General argues that WMECo should return the March fuel charge over-recovery to ratepayers in the form of a credit applied against the WMECO's SODA (id. at 1).

The Department agrees with the Attorney General that the final balance of the February 28, 1998 fuel charge under-recovery is undetermined at this time because the resolution of this total was beyond the scope of this proceeding. The resolution of the final balance of the February 28, 1998 fuel charge under-recovery will be determined in WMECo's outstanding performance review proceedings. Because the final balance of the February 28, 1998 under-recovery is not a precise figure, the Department finds that applying the March fuel charge over-recovery to an account with an unknown balance would be speculative. Accordingly, the Department rejects WMECo's proposed method of returning the March fuel charge over-recovery to ratepayers through a credit to the February 28, 1998 fuel charge under-recovery balance.

Regarding the Attorney General's recommended treatment of the March fuel charge over-recovery, G. L. c.164, § 94(b), provides for the recovery of prudently incurred reasonable costs of fuel and purchased power by electric companies through an itemized fuel charge. The SODA is not related to the cost of fuel. In addition, using the fuel charge over-recovery to partially offset the SODA would not benefit those customers who contributed to the fuel charge over-recovery but have since left Standard Offer Service.<sup>(3)</sup> The Department finds that the Attorney General's recommendation to use the March fuel charge over-recovery funds to partially offset WMECo's SODA is inappropriate. Therefore, the Department rejects the Attorney General's recommend method of returning the March fuel charge over-recovery to ratepayers through a credit to WMECo's SODA.

Consistent with the provisions for over-recovery and intent of G.L. c. 164, § 94G, the Department directs WMECo to return the March fuel charge over-recovery to ratepayers in the form of a per KWH credit on bills issued pursuant to meter readings for the billing months of October, November, and December 1999. This credit cannot be a part of any rate reduction[s] that are required by the Electric Restructuring Act of 1997 and shall appear as a line item on each ratepayer's bill. The Department also directs the Company to file by December 15, 1999, a reconciliation for the purpose of implementing any adjustment to the credit amount that may be necessary due to a discrepancy between the forecasted KWH and the actual KWH consumed while the credit is in effect.

Pursuant to Boston Edison Company, D.P.U. 85-1C (1985), the Department directs WMECo to apply interest to the March fuel charge over-recovery total using an interest rate equal to the prime rate. D.P.U. 85-1C at 14. Interest shall accrue effective March 1, 1998.

Regarding exemptions from the requirements of G.L. c. 164, §§ 94G and 94G½ for goal-settings and performance reviews, no party objected to the Department granting the Company such exemptions for its non-nuclear generating units. WMECo states that it intends to continue to file "Proposed Performance Program" and "Actual Unit by Unit Performance Programs" for its nuclear generating units (May 1, 1998 Plan at 6; Tr. at 20). Since WMECo has either divested or is in the process of divesting itself of all entitlement interests in its non-nuclear generating units, the Department finds that it is in the public interest to grant exemptions from the requirements of G.L. c. 164, §§ 94G and 94G½ for these units. These exemptions are effective as of the date that WMECo divests its entitlement interests in each of its non-nuclear generating units. The Department notes that these exemptions do not preclude the Department from future investigations into the procurement of standard offer and default service power.

The Attorney General proposes that the Department order the Companies to file a list of any outstanding fuel charge related issues along with a proposal addressing how to resolve these issues. The Department finds that such an undertaking would be unnecessary as this order effectively resolves all fuel charge related issues for WMECo.

#### IV. ORDER

After due notice, hearing, and consideration, it is

ORDERED: That Western Massachusetts Electric Company return its March fuel charge over-recovery to ratepayers, in the form of a per KWH credit on bills issued pursuant to meter readings for the billing months of October, November, and December 1999, but unless otherwise ordered by the Department, shall not become effective earlier than seven (7) days after it is filed with supporting data demonstrating that such credit complies with this Order; and it is

FURTHER ORDERED: That Western Massachusetts Electric Company fuel charge credit appear as a line item on each ratepayer's bill and shall not be a part of any rate reduction[s] that are required by the Electric Restructuring Act of 1997; and it is

FURTHER ORDERED: That Western Massachusetts Electric Company file by December 15, 1999, a reconciliation for the purpose of implementing any adjustment to the credit amount that may be necessary due to a discrepancy between the forecasted KWH and the actual KWH consumed while the credit is in effect; and it is

FURTHER ORDERED: That Western Massachusetts Electric Company apply interest to the March fuel charge over-recovery total using an interest rate equal to the prime rate and accruing effective March 1, 1998; and it is

FURTHER ORDERED: That Western Massachusetts Electric Company is exempted from the goal-setting and performance review requirements of G.L. c. 164, §§ 94G and 94G½ for its non-nuclear units, effective as of the date that WMECo divests its entitlement interests in each of its generating units; and it is

FURTHER ORDERED: That Western Massachusetts Electric Company comply with any and all other directives contained in this Order.

By Order of the Department,

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Janet Gail Besser, Chair

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James Connelly, Commissioner

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W. Robert Keating, Commissioner

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Paul B. Vasington, Commissioner

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Eugene J. Sullivan, Jr., Commissioner

1. The February 20, 1998 Order also (1) exempted the Companies from the fuel charge, (2) authorized the Companies to put into effect an approved fuel charge for bills issued pursuant to meter readings for the billing month of March 1998 for electricity consumed in February 1998, and (3) authorized the Companies' continuance of the Qualifying Facility rate.
2. In the interim, the Department clarified the scope of the hearing to be solely exemptions from the requirements of G.L. 164, §§ 94G and 94G1/2 and not to include a comprehensive audit of the Companies' fuel charges. Interlocutory Order on Appeal of Hearing Officer Ruling, D.T.E. 98-13, at 5-6 (April 16, 1999).
3. Standard Offer Service is the legislatively-mandated provision of electric power to customers at a Department-approved rate, which includes a 10 percent discount for the period March 1, 1998 and a 15 percent discount for the period September 1, 1999 to January 1, 2004, as the electric industry shifts to retail competition.